

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DAVID AUGUST KILLE, SR.,

Petitioner,

vs.

STATE OF NEVADA, *et al.*,

Respondents.

Case No. 2:14-cv-01306-GMN-CWH

ORDER

This is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. The matter has not been properly commenced because petitioner submitted incomplete financial paperwork. In addition to filing an application to proceed *in forma pauperis* on the court-approved form, a prisoner seeking to proceed *in forma pauperis* “shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined.” 28 U.S.C. § 1915(a)(1), (2); Local Rule LSR 1-2. Petitioner has failed to submit an *in forma pauperis* application on the court-approved form and has failed to provide the necessary financial information.

Due to the defects presented, the *in forma pauperis* application will be denied. The present action will be dismissed without prejudice to the filing of a new petition in a new action with an *in forma pauperis* application with all required attachments. It does not appear from the papers presented that a dismissal without prejudice would result in a promptly-filed new petition being untimely. In this regard, petitioner at all times remains responsible for calculating the running of the federal limitation period as applied to his case, properly commencing a timely-filed federal habeas action, and properly exhausting his claims in the state courts.

IT IS THEREFORE ORDERED that the application to proceed *in forma pauperis* (ECF No. 1) is **DENIED** and that this action is **DISMISSED WITHOUT PREJUDICE** to the filing of a new petition in a new action with a properly completed *in forma pauperis* application with all new and complete financial attachments.

1 **IT IS FURTHER ORDERED** that the Clerk of Court shall send petitioner the following:
2 (1) two copies of an application form to proceed *in forma pauperis* for incarcerated persons and
3 instructions for the same; and (2) a noncapital Section 2254 habeas petition form and instructions
4 for the same.

5 **IT IS FURTHER ORDERED** that all pending motions in this action are **DENIED**,
6 including petitioner's motion to extend copywork (ECF No. 2).

7 **IT IS FURTHER ORDERED** that petitioner may file a new petition and *in forma pauperis*
8 application in a new action, but he may not file further documents in this action.

9 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

10 **IT FURTHER IS ORDERED** that a certificate of appealability is **DENIED**. Reasonable
11 jurists would not find the dismissal of the improperly-commenced action without prejudice to be
12 debatable or wrong.

13 **DATED** this 14th day of August, 2014.

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Gloria M. Navarro, Chief Judge
United States District Court